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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,166	02/26/2004	David W. Disc	07880007AA	9136
30743	7590	02/21/2007	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			RICHMAN, GLENN E	
		ART UNIT		PAPER NUMBER
				3764

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/786,166	DISE ET AL.	
	Examiner Glenn Richman	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 September 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 6, 13-15, 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crespo in view of Blom.

Crespo discloses a handle (1); a pulley connectable to a weight stack or resistance machine or device (5); and a cord which passes through said pulley and is connected to said handle at two points separated along a length of said handle (4), said pulley being moveable along said cord to locations which are closer to or further from either of said two points (see fig. 1, pulley is movable on 10, or could be removed and moved closer or further ...).

Crespo does not disclose said handle being freely rotatable about a longitudinal axis passing through the handle.

Blom discloses a handle being freely rotatable about a longitudinal axis passing through the handle (fig. 3).

It would have been obvious to use Blom's handle, with Crespo's device, as it is well known to use a freely rotatable handle, as taught by Blom, for providing a flexible training apparatus.

Crespo further disclose said handle being freely shiftable, movable or turnable with said cord passing through said pulley during shifting, moving or turning (see fig. 1),, a protective sheath positioned over said cord at one or more locations (7), a swivel connector associated with said pulley (fig. 5), handle is a ball (1).

As for the various species of claims 14,15, 17 and 18, it would be obvious to use a football or bowling ball with Crespo or Blom, as it is well known to use a football or bowling ball in training devices, and as Crespo or Blom lends themselves to be used with either.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crespo and Blom and further in view of Masters.

Crespo does not disclose the cord is made of rope.

Masters discloses a cord made of rope (abstract).

It would have been obvious to use Masters rope with Crespo's cord, as it is well known to use a rope in a swing training device, as taught by Masters, for providing a link to the resistance device.

Claims 3, 4, 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crespo and Blom and further in view of Halsworth.

Crespo does not disclose the cord is made of rubber.

Halsworth discloses a cord made of rubber (abstract).

It would have been obvious to use Halsworth rubber with Crespo's cord, as it is well known to use a rubber in a swing training device, as taught by Halsworth, for providing a link to the resistance device.

Halsworth further discloses said cord is or includes a metal cable (col. 1, lines 56-63), handle includes a golf club grip (col. 1, lines 56-63), portion of a softball or baseball bat (col. 1, lines 56-63), said handle includes at least a portion of a hockey stick (col. 1, lines 56-63), at least a portion of a tennis racket (col. 1, lines 56-63), at least one of said two points where said cord and said handle are connected includes a member which encircles said handle and permits rotation of said handle within said member (fig. 11), where said cord and said handle are connected includes washer assembly which fits within said handle and permits rotation of said handle relative to said washer assembly (fig. 1).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 16 is rejected under 35 U.S.C. 102(e) as being anticipated by Crespo.

Crespo discloses a ball member (1); and a connector connected to and spaced away from the ball member for connecting the ball member to a weight stack or resistance machine (2,3), said connector permitting rotation of said ball member about an axis through said ball member which extends to said connector (fig. 1), and said ball member being freely shiftable, movable, or turnable with respect to said connector during shifting, moving or turning (fig. 1), said connector including a cord connected to one point on said connector and to another point spaced away from said one point either along the length of said connector or on said ball device, and a pulley which is moveable along said cord to locations which are closer to or further from either of said one point or said another point (fig. 1).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Glenn Richman
Primary Examiner
Art Unit 3764